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Implementation of the tenth preambular paragraph of the Treaty on the Non-Proliferation of Nuclear Weapons: Developments since the 1995 Review and Extension Conference

Background paper prepared by the United Nations Secretariat

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I. Introduction

1. At its third session (10-21 May 1999), the Preparatory Committee for the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons invited the Secretary-General to prepare for the Conference a background paper on the "implementation of the tenth preambular paragraph (comprehensive nuclear-test ban), reflecting developments since the 1995 Review and Extension Conference".

2. The Preparatory Committee stated that the following general approach should apply to the proposed papers (similar to the approach applied for the preparation of background documentation for the 1995 Review and Extension Conference): all papers must give balanced, objective and factual descriptions of the relevant developments, be as short as possible and be easily readable. They must refrain from presenting value judgements. Rather than presenting collections of statements, they should reflect agreements reached, actual unilateral and multilateral measures taken, understandings adopted, formal proposals for agreements made and important political developments directly related to any of the foregoing. The papers should focus on the period since the 1995 Review and Extension Conference and on the implementation of the outcome of that conference, including the decisions on "Strengthening the Review Process for the Treaty" and on "Principles and Objectives for Nuclear Non-Proliferation and Disarmament" and the "Resolution on the Middle East".

3. The present paper is submitted in response to that request. A detailed presentation of events that took place before May 1995 is contained in the background paper on the same subject prepared for the 1995 Review and Extension Conference (NPT/CONF.1995/2).

II. Brief overview

4. The question of nuclear-weapon-test explosions represents one of the longest-standing issues on the disarmament agenda of the international community. It has been dealt with in the framework of multilateral, trilateral and bilateral negotiations since 1954, when India proposed a so-called "standstill agreement" on testing. Interest in the subject first arose as the general public became increasingly aware of the harmful nature and effects of the fallout from atmospheric nuclear tests and as it became apparent that no region could avoid being affected by radioactive fallout. The issue of the ban on nuclear-weapon tests was subsequently pursued intermittently as an element of comprehensive plans for arms control and disarmament, as a separate measure interlined with progress in other disarmament areas and as an arms limitation issue on its own. In each case, the question of verification has played an important role and has influenced the course and outcome of the negotiations.

5. It is estimated that from the beginning of the nuclear age, on 16 July 1945, when the first atomic test was carried out at Alamogordo, New Mexico, United States of America, to May 1998, some 2,000 nuclear test explosions were conducted in the world: by the United States, 1,032; the Soviet Union, 715; the United Kingdom of Great Britain and Northern Ireland, 45; France, 210; and China, 45.[1] In 1974, India announced that it had conducted an underground explosion of a nuclear device for peaceful purposes and in May 1998 that it had conducted five underground nuclear test explosions. Pakistan announced that it had conducted six nuclear test explosions in the same month.[2]

6. At the time of the 1995 Review and Extension Conference, three treaties on nuclear testing, none comprehensive, were in force: the multilateral Partial Test Ban Treaty of 1963 and the two bilateral treaties on limitation of yields of nuclear tests for military and peaceful purposes between the USSR and the United States.[3] The latter two treaties, signed, respectively in 1974 and 1976, entered into force in 1990 after intensive negotiations on verification provisions.

7. Although the Geneva multilateral negotiating body, the Conference on Disarmament and its predecessors,[4] had long been involved with the issue of a test ban, only in 1982 did it establish an Ad Hoc Committee on a Nuclear Test Ban. Disagreement over the mandate for that body, however, blocked tangible progress. It was only in August 1993, that the Conference on Disarmament agreed on a mandate for an ad hoc committee that allowed negotiations to begin in 1994 on a "universal and multilaterally and effectively verifiable comprehensive nuclear-test-ban treaty which contributes to nuclear disarmament and the prevention of the proliferation of nuclear weapons in all its aspects".[5] The negotiations resulted in the first

"rolling text" of a comprehensive test-ban treaty, which formed the basis for further elaboration and development.

8. Concerned about the slow pace of progress in the Conference on Disarmament towards a comprehensive test-ban treaty, a number of non-aligned countries States parties to the Partial Test-Ban Treaty proposed that a comprehensive test ban should be achieved by formally amending the Partial Test-Ban Treaty. Following up on an earlier initiative launched by Mexico in 1985, the General Assembly, on 4 December 1990, adopted resolution 45/50, on the convening of an Amendment Conference of the States Parties to the Partial Test-Ban Treaty. The Conference, which was held in January 1991, was unable to reach agreement on a procedure to amend the Treaty. A follow-up meeting held in August 1993 coincided with the adoption by the Conference on Disarmament of the mandate to initiate negotiations in the Ad Hoc Committee of the Conference.

9. Unilateral moratoriums have played an important role in the history of test-ban negotiations since the mid-1980s. In October 1991, the Soviet Union declared an immediate one-year unilateral moratorium on nuclear-weapon tests which was extended for several times and also observed by the Russian Federation. In April 1992, France suspended the testing of nuclear weapons, but resumed testing in September 1995. It stopped its nuclear testing programme in January 1996. The last nuclear test carried out by the United Kingdom of Great Britain and Northern Ireland was in November 1991 and that of the United States, in September 1992. China ended its nuclear-testing programme in July 1996.

10. The subject of a comprehensive test-ban treaty received prominent attention at the 1995 Review and Extension Conference of the Parties to the Non-Proliferation Treaty. Decision 2 on "Principles and Objectives for Nuclear Non-Proliferation and Disarmament" adopted by the Conference lists as the first measure towards the implementation of article VI of the Non-Proliferation Treaty "the completion by the Conference on Disarmament of the negotiations on a universal and internationally and effectively verifiable comprehensive nuclear-test-ban treaty no later than 1996. Pending the entry into force of a comprehensive test-ban treaty, the nuclear-weapon States should exercise utmost restraint."[6]

11. The General Assembly, at its fiftieth session, in 1995, adopted three resolutions on the subject of a nuclear test ban: the first on negotiations on a comprehensive test-ban treaty,[7] the second on nuclear testing[8] and the third on the Amendment Conference of the Parties to the Partial Test-Ban Treaty (see para. 8 above).[9]

III. Main developments since the 1995 Review and Extension Conference

A. Negotiations in the Conference on Disarmament

12. At the beginning of its 1996 annual session, the Conference on Disarmament re-established the Ad Hoc Committee on a Nuclear Test Ban with the same mandate as in 1994 and 1995. In accordance with that mandate, the Ad Hoc Committee continued, and further intensified, negotiation of the draft treaty with a view to enabling its signature by the outset of the fifty-first session of the General Assembly, as requested in its resolution 50/65 of 12 December 1995. In discharging its mandate, the Committee established two working groups: Working Group 1, on verification, and Working Group 2, on legal and institutional issues. In the course of the negotiations, the Committee appointed 12 Friends of the Chair and 5 Moderators to deal with specific issues in private and open-ended consultations.

13. At the first meeting of the Ad Hoc Committee, India provided new language on the preamble, entry into force and review, which emphasized the total elimination of nuclear weapons within a time-bound framework. The debates revealed a polarization of views. While Australia, Canada, the Russian Federation, the United Kingdom and the United States called for avoiding inclusion in the treaty of language that did not enjoy international consensus, many members of the Group of 21 strongly supported the thrust of the Indian proposal, stressing that the Comprehensive Nuclear-Test-Ban Treaty was the first multilateral nuclear disarmament treaty, not another non-proliferation treaty. For this reason they wanted to enshrine the elimination of nuclear weapons in a time-bound form.

14. Working Group 1 made intensive efforts towards finalizing treaty language on the verification regime in the rolling text. The Friends of the Chair held

consultations with delegations on the International Monitoring System, the International Data Centre and on-site inspections. As a result, at the end of March, the Chairman of the Working Group presented revised draft language on provisions on verification issues for inclusion in the rolling text. Working Group 2 focused its attention on legal and institutional aspects of the future organization to be entrusted with implementing the treaty. It considered, *inter alia*, the issues of entry into force, duration and withdrawal, review, composition of the Executive Council, measures to redress a situation contravening the treaty, national implementation measures including compliance, funding and the seat of the organization and its possible relationship to the International Atomic Energy Agency (IAEA). Following the discussion on these issues, the treaty language in the rolling text was substantially revised and refined.

15. In February 1996, draft treaty texts were submitted by both Australia and the Islamic Republic of Iran that were used by the Ad Hoc Committee as resource papers. At the end of the first part of the session, on 28 March, the Chairman submitted for the first time an "Outline of a draft comprehensive nuclear-test-ban treaty". The Chairman indicated that his aim was to show what a Comprehensive Nuclear-Test-Ban Treaty could look like and to highlight the key issues needing decisions. Various countries, including China and India, stressed nonetheless that they expected the Chairman to present a new rolling text at the second part of the session.

16. On 28 May, the Chairman presented a complete draft text of the treaty to the Committee. Some delegations, such as China, India and Pakistan, however, felt that they could not accept the draft text as a basis for negotiations and expressed the view that the rolling text should remain the basis document. India stated that the Chairman's draft treaty text did not meet its concerns about nuclear disarmament within a time-bound framework. It also said that it could not accept the language in the Chairman's text requiring it and 43 other countries to ratify the treaty for it to enter into force and that it would not accept any language that would affect its sovereign right to decide in the light of its national interests whether to accede to a treaty. Following the presentation of the draft text, the Committee, despite concerns expressed by some States, shifted into a new negotiating framework under the guidance of the Chairman and the Moderators. This methodology opened up a period of renewed political conceptual discussions of the main outstanding issues. On the closing day of the second part of the session, 28 June, the Chairman of the Ad Hoc Committee presented a revised draft treaty, expressing his conviction that convergence had reached its peak and recommending the draft treaty for consideration to delegations and to their capitals. Several States expressed their support for the text. A number of others reaffirmed their willingness to continue the negotiations until an agreement was reached on a consensus draft treaty. The Chairman also presented a revised "Draft text on the establishment of a preparatory commission", which had been prepared by one of the Friends of the Chair.

17. At the outset of the third part of the session, at the end of July, a considerable number of countries stated that in spite of reservations, they could accept the Chairman's text as it was, and that the Conference should seize the opportunity to forward it to the General Assembly for signature in September. A number of them expressed concern that any further negotiations might lead away from consensus down the "dangerous road to failure". Some other States, including China, Cuba, Egypt, the Islamic Republic of Iran and the Russian Federation, expressed reservations at least on parts of the text.

18. The Chairman conducted informal consultations and, on 9 August, reported that there was a general appreciation of the time constraints faced by the Committee for concluding a comprehensive nuclear-test-ban treaty if it was to be signed at the outset of the fifty-first session of the General Assembly. During those consultations, many members of the Group of 21 had wished to see a more prominent role for nuclear disarmament in the preamble. However, the Chairman clarified that the draft reflected the mandate of the negotiations and gave due weight to the process of nuclear disarmament and to the prevention of the proliferation of nuclear weapons. He concluded that further improvements to the preamble were not feasible.

19. The Chairman conducted a further round of consultations, which by and large confirmed his earlier conviction that convergence had reached its peak. Nevertheless, he felt that in one area there was still room for further modifications. Accordingly, he proposed a revised provision on on-site verification, which seemed essential to achieve final agreement on

the draft treaty. Subsequently, nearly all the members of the Committee made statements, expressing support, reservations or objections to the Chairman's text and to the proposal to transmit it to the Conference, which were recorded in the report of the Ad Hoc Committee. India reaffirmed its view that the text was only a "nuclear weapons test explosion ban treaty" and was not comprehensive. It left open the possibility of non-explosive testing and thus the qualitative improvement of nuclear weapons, risking another nuclear weapons technology race. The draft did not ensure that the comprehensive nuclear-test-ban treaty would be an irreversible step in a time-bound process of nuclear disarmament. Moreover, India opposed transmittal and was adamant that the language in the article on entry into force (article XIV) was unprecedented in treaty negotiating practice and would require it to sign against its will. The Ad Hoc Committee therefore concluded that no consensus for transmittal could be reached and thus referred its report to the Conference on Disarmament without the treaty attached. Thereupon, the delegation of Belgium, in its national capacity, undertook on 22 August to issue the treaty as a document of the Conference on Disarmament.[10]

20. After 20 years of activities, including three global technical tests in 1984, 1991 and 1995 (GSETT1-3) and the submission of reports to the Conference on Disarmament,[11] the Ad Hoc Group of Scientific Experts to Consider International Cooperative Measures to Detect and Identify Seismic Events (GSE) succeeded in designing and developing an international seismic network, the core monitoring technique of the future International Monitoring System. The Group held its forty-fifth and last session in August 1996.

B. General Assembly

21. In a letter dated 22 August 1996,[12] Australia requested the President of the fiftieth session of the General Assembly to make arrangements for the Assembly to meet in plenary session to consider and take action on a comprehensive nuclear-test-ban treaty pursuant to General Assembly resolution 50/65. By that resolution, the Assembly had declared "its readiness to resume consideration of this item, as necessary, before its fifty-first session in order to endorse the text of a comprehensive nuclear-test-ban treaty". Australia also submitted to the Secretary-General for circulation as official documents of the Assembly the text of a draft treaty, identical to the one circulated by Belgium in the Conference on Disarmament, and a draft resolution for adoption of the treaty and its opening for signature at the earliest possible date.[13]

22. On 29 August, India submitted a letter to the President of the General Assembly[14] in which it noted that resolution 50/65 referred to the texts of a comprehensive nuclear-test-ban treaty that was to be concluded by the Conference on Disarmament and that the treaty submitted by Australia "as a national paper" had not been adopted by consensus at the Conference. India considered therefore that the endorsement of any national document containing the non-consensus text would be contrary to the relevant provisions of resolution 50/65. In another letter to the President, India suggested changes to the preamble and the provisions on basic obligations and entry into force. Argentina, Japan and the Russian Federation, on the other hand, addressed letters to the Secretary-General or the President of the Assembly declaring their support for the draft text and the procedure for its consideration.[15]

23. On 9 September, the General Assembly agreed to Australia's request to resume consideration of the item dealing with the comprehensive nuclear-test-ban treaty and proceeded immediately to its consideration in plenary session. Australia, introducing the draft resolution sponsored by 127 Member States,[16] explained the reason for the procedural arrangement made to submit the draft treaty to the Assembly, namely, that the treaty had been overwhelmingly agreed to in the Conference on Disarmament and that only one State had not agreed to transmit it to the Assembly. Australia also underlined that those "particular or exceptional circumstances" should not set a precedent and expressed support for the operating procedures of the Conference on Disarmament, a point stressed by a large number of States. A very large number of delegates made statements supporting the adoption of the resolution and the draft comprehensive nuclear-test-ban treaty and reiterating a variety of reservations concerning the treaty text itself, many of which had already been expressed during negotiations in the Conference on Disarmament. India reiterated its objections to the draft treaty text, which it had made clear in the Conference on Disarmament. Pakistan stated that it was prepared to adopt the text of the resolution, but would not be able to sign the treaty as long as it experienced a security threat in its own

region. On 10 September, the Assembly adopted the draft resolution by 158 votes to 3, with 5 abstentions, thereby adopting the Comprehensive Nuclear-Test-Ban Treaty as resolution 50/245. Following the vote India declared that it would never sign this unequal treaty; the Libyan Arab Jamahiriya expressed the belief that the draft treaty fell short of the complete and comprehensive elimination of all nuclear weapons and tests.

24. The Comprehensive Nuclear-Test-Ban Treaty was opened for signature on 24 September 1996. It will enter into force 180 days after the date of deposit of the instruments of ratification by the 44 States listed in Annex 2 to the Treaty.[17] To date, the Treaty has been signed by 155 countries and ratified by 54. Of the 44 States whose signature and ratification are required for the Treaty to enter into force, 28 have ratified it, including France and the United Kingdom. The Treaty creates an international norm against testing. According to the Vienna Convention on the Law of Treaties, signatory States are obliged to refrain from acts that would defeat the object and purpose of the Treaty even before it has entered into force.[18]

C. Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization

Mandate and establishment

25. On 19 November 1996, the Secretary-General, in his capacity as Depositary of the Comprehensive Nuclear-Test-Ban Treaty and pursuant to resolution 50/245, convened a meeting of States signatories of the Treaty in New York. The participating States, by their resolution of that date, approved the Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) for the purpose of carrying out the necessary preparations for the effective implementation of the Comprehensive Nuclear-Test-Ban Treaty and preparing for the first session of the Conference of States Parties to the Treaty.[19] Accordingly, the Preparatory Commission took up its work at the Vienna International Centre, the future seat of CTBTO, on 17 March 1997. The Preparatory Commission is an international organization financed by the States signatories according to the United Nations scale of assessment adjusted to take account of differences between United Nations membership and the States signatories, and timing of signature. It consists of two organs: a plenary body composed of all the States signatories — also known as the Preparatory Commission (PrepCom) — and the Provisional Technical Secretariat. At its resumed first session, the Preparatory Commission established Working Group A on budgetary and administrative matters and Working Group B on verification issues. At its second session, the Commission established the Advisory Group on financial, budgetary and associated administrative issues, in accordance with its financial regulations. Both working groups and the Advisory Group make proposals and recommendations for consideration and adoption by the Preparatory Commission at its plenary sessions. The budgets of the Preparatory Commission were: $27.7 million (1997), $58.4 million (1998) and $74.4 million (1999), and for 2000 the budget is $79.9 million. As of February 2000, the percentage of assessed contributions that had been paid was: 97.39 per cent (1997), 96.42 per cent (1998), 95.24 per cent (1999) and 29.10 per cent (2000). As of February 2000, 221 staff members from 66 States signatories were working in the Provisional Technical Secretariat.

Global verification regime

26. Since its inception, the Preparatory Commission has concentrated on establishing the global verification regime mandated under article IV of the Treaty to verify compliance with the global prohibition on nuclear explosives testing set out under Article I. The regime will consist of an International Monitoring System, a consultation and clarification process, on-site inspections and confidence-building measures. At the entry into force of the Treaty, the global verification regime has to be capable of meeting the Treaty's verification requirements.

27. The objective of the International Monitoring System is to establish a worldwide network of 321 stations, in some 90 countries, to help detect, locate and identify the signals generated by a nuclear explosion, using four complementary technologies to distinguish between natural events and nuclear explosions. Fifty primary and 120 auxiliary seismological stations will be capable of detecting the seismic waves generated by an underground nuclear explosion. Eighty radionuclide stations, supported by 16 laboratories, will be capable of detecting minute quantities of gaseous fission products vented by a

nuclear explosion underground or under water or the unambiguous traces of radioactive particles and gases that are released into the atmosphere by atmospheric tests and carried great distances by the wind. Sixty infrasound stations will be capable of detecting the low-frequency sound produced by explosions in the atmosphere or near the ocean's surface. Eleven hydroacoustic monitoring stations will be capable of detecting explosions in or immediately above the oceans thousands of kilometres away. The monitoring stations will transmit, via satellite, the data generated by the four verification technologies to the International Data Centre, which is being progressively commissioned in Vienna as the nerve centre of the Treaty verification system. Its mission is to support the verification responsibilities of member States by providing objective products and services necessary for effective global monitoring. The data transmitted to the International Data Centre are processed, analysed and used to help detect, locate and characterize events and then made available to States parties for their review and final analysis. Ambiguous events will be subject to consultation and clarification. Once the Treaty enters into force, an on-site inspection may be mandated by the Executive Council of CTBTO as a final verification measure.

28. The International Monitoring System has been developed through negotiation and scientific evaluations, by GSE, so as to ensure cost-effective and comprehensive global coverage by the system's monitoring facilities. By February 2000, a total of 196 site surveys had been completed and 14 primary seismic stations, 29 auxiliary seismic stations, 3 infrasound stations and 4 radionuclide stations had been installed. Certification activities, including the installation of devices to ensure the authenticity and accuracy of the data generated at the stations and transmitted to and from the International Data Centre, had been initiated for six stations. The International Monitoring System offers training programmes for managers and operators of stations.

29. **International Data Centre**. The Centre draws upon the methodology, experience and software developed by the prototype International Data Center in Virginia, United States, set up under GSETT-3.[20] Although the Centre was undergoing software trials during the nuclear tests announced by India and Pakistan, the System was able to detect those events. On 21 February 2000, with data from some 100 monitoring stations, the Centre began providing initial services and distributing monitoring data and products to States signatories seven days a week. The Global Communications Infrastructure plays a critical role in the acquisition of System data from the 337 facilities as well as the dissemination of those data and Centre products to States signatories. The Centre holds training programmes for prospective analysts and staff of national data centres.[21]

30. **On-site inspection**. The on-site inspection regime as defined by the Treaty is unique: every inspection will be a challenge inspection, as there are no routine inspections. While the challenge inspections can only be mandated once the Treaty enters into force, the Preparatory Commission has been endeavouring to define and build up its inspection capabilities in accordance with Treaty requirements. This involves the development of a draft concept of operations and a draft operational manual, designation of inspection equipment, acquisition of a limited amount of such equipment and introducing training and exercise programmes to develop a cadre of potential inspectors.[22]

31. Confidence-building measures stipulated by the Treaty are of a voluntary nature. At its session in August 1999, the Preparatory Commission agreed on the establishment of a database on chemical explosions, thereby creating the basic technical conditions for the implementation of the regime of confidence-building measures after the entry into force of the Treaty.[23]

Other activities

32. The Provisional Technical Secretariat has instituted a programme of international cooperation to highlight not only the fundamental importance of the Comprehensive Nuclear-Test-Ban Treaty in promoting global peace and security and the potential for pooling expertise in station operation and data analysis, but also the possible spin-off uses and additional scientific benefits of the four verification technologies.

D. Nuclear tests

33. On 11 and 13 May 1998, India announced that it had conducted five underground nuclear test explosions. Pakistan then announced on 28 and 30 May that it had conducted six nuclear tests. The tests were

the first since the opening for signature of the Comprehensive Nuclear-Test-Ban Treaty in September 1996 and the de facto moratorium on nuclear testing that had been in existence since then. There was considerable concern about the effects these developments would have on the long-term viability of the non-proliferation regime and international peace and stability, at both regional and global levels. Following the first series of tests and subsequent events, the Secretary-General of the United Nations issued a number of statements in which he deplored the tests, called upon the two States to sign the Comprehensive Nuclear-Test-Ban Treaty, noted that those developments had far-reaching consequences for the region and the international community and urged the two States to exercise restraint and to reduce the high level of tension between them.[24] Both the Chairman and the Executive Secretary of the Preparatory Commission issued statements appealing to all parties concerned in the region for restraint and urging both countries to join the Comprehensive Nuclear-Test-Ban Treaty without delay and unconditionally. At the sixth session of the Preparatory Commission, the States signatories expressed deep concern and regret with regard to the nuclear tests carried out by India and Pakistan, noting that they were contrary to the goal of non-proliferation of nuclear weapons and nuclear disarmament.

34. At the Conference on Disarmament, 47 member States and observers emphasized in a joint statement[25] that the nuclear tests by India and Pakistan blatantly undermined the international regime of non-proliferation of nuclear weapons as well as the goal of eliminating them. Both countries were urged to immediately announce the cessation of all further testing of those weapons, renounce their nuclear weapons programmes, sign and ratify unconditionally the Comprehensive Nuclear-Test-Ban Treaty, accede without delay to the Treaty on the Non-Proliferation of Nuclear Weapons and engage in negotiations to conclude a ban on the production of fissile material. Brazil, Mexico and South Africa stressed that the new situation created by the tests clearly called for a change in attitudes, underscored the need for clear and unambiguous and binding commitments to a phased programme for the complete elimination of nuclear weapons on the part of all States possessing those weapons as the best guarantee against nuclear proliferation, and called for the urgent establishment of an ad hoc committee on nuclear disarmament.[26] Following the tests, both India and Pakistan explained their positions. India stressed that the tests had proved its capability for a weaponized nuclear programme and provided it with a database that would be useful in designing nuclear weapons of different yields for different applications and delivery vehicles. It also announced that it was prepared to consider adhering to some of the undertakings of the Comprehensive Nuclear-Test-Ban Treaty and reaffirmed its policy of utmost control over the export of sensitive technologies, equipment and commodities, especially those related to weapons of mass destruction.[27] Pakistan pointed out that India's tests had destabilized the security balance in South Asia and that Pakistan was obliged to establish the balance of mutual deterrence by its own tests; it was not seeking nuclear-weapon status. It maintained that its attitude towards the Non-Proliferation Treaty and the Comprehensive Nuclear-Test-Ban Treaty and the fissile material negotiations would depend on whether or not the international community was ready to accept India as a nuclear-weapon State and on the degree of weaponization and size and quality of its fissile material.[28]

35. In June 1998, the Ministers for Foreign Affairs of the five permanent members of the Security Council issued a joint communiqué[29] in which they condemned the tests and called upon India and Pakistan to adhere immediately and unconditionally to the Comprehensive Nuclear-Test-Ban Treaty, to participate in negotiations on a fissile material cut-off convention in the Conference on Disarmament and to confirm their policies not to export equipment, materials or technology that could contribute to weapons of mass destruction or missiles capable of delivering them. With regard to the non-proliferation regime, the Ministers reaffirmed the need for adherence by all countries, including India and Pakistan, to the Non-Proliferation Treaty as it stood, without any modification, stressing that India and Pakistan did not have the status of nuclear-weapon States in accordance with the Non-Proliferation Treaty.

36. The Security Council, by its resolution 1172 (1998), adopted unanimously on 6 June 1998, *inter alia*, reaffirmed its full commitment to and the crucial importance of the Non-Proliferation Treaty and the Comprehensive Nuclear-Test-Ban Treaty as the cornerstones of the international regime on the non-proliferation of nuclear weapons and as essential

foundations for the pursuit of nuclear disarmament; expressed its firm conviction that the international regime on the non-proliferation of nuclear weapons should be maintained and consolidated and recalled that, in accordance with the Non-Proliferation Treaty, India or Pakistan could not have the status of nuclear-weapon State. The Council furthermore recognized that the tests conducted by India and Pakistan constituted a serious threat to global efforts towards nuclear non-proliferation and disarmament, and urged India and Pakistan, and all other States that have not yet done so, to become Parties to the Non-Proliferation Treaty and to the Comprehensive Nuclear-Test-Ban Treaty without delay and without conditions. The Council set out a number of steps to be undertaken by the two countries, including to immediately stop their nuclear weapons development programmes, to refrain from weaponization or from the deployment of nuclear weapons and to cease development of ballistic missiles capable of delivering nuclear weapons and any further production of fissile material for nuclear weapons.

37. Both India and Pakistan rejected the resolution. India argued that it was coercive and unhelpful, and that a global and comprehensive approach towards the adoption of a nuclear weapons convention in the shortest possible time was essential. Pakistan stressed that it would have expected the Security Council to address the issues related to promoting nuclear restraint and stabilization measures between itself and India. In a letter dated 8 July addressed to the President of the Security Council, the Secretary-General informed the Council of the proposals and positions expressed by India and Pakistan as well as the results of his own efforts to encourage a dialogue between the two countries.[30]

38. The Group of Eight Major Industrialized Nations, the European Union, the Agency for the Prohibition of Weapons in Latin America (OPANAL), the Central American Integrated System, the Association of South-East Asian Nations (ASEAN), the South Pacific Forum and the Gulf Cooperation Council condemned the nuclear tests and most of them endorsed the steps called for in the resolution of the Security Council. Several members imposed economic sanctions on both countries. The Heads of State or Government of the Non-Aligned Countries, at their Summit Conference held in Durban, South Africa, in September 1998, in their Declaration for the New Millennium, noted, *inter alia*, the complexities arising from nuclear tests in South Asia and considered positively the commitment by the parties concerned in the region to exercise restraint and to discontinue nuclear tests.[31] The General Conference of IAEA strongly deplored the tests and called upon the States concerned to conclude promptly, consistent with their safeguards commitments and pending their adherence to the Non-Proliferation Treaty, the additional protocols to Safeguards Agreements.[32]

39. Since the testing, both India and Pakistan have each announced a unilateral moratorium. India also conveyed its willingness to explore ways and means of converting that undertaking into a *de jure* obligation. Both have agreed to participate in negotiations in the Conference on Disarmament on a convention banning the production of fissile material for nuclear weapons or other nuclear explosive devices. They have also engaged in bilateral discussions on the issues with key interlocutors. Moreover, India offered to enter into discussions on an agreement on the "no-first-use" of nuclear weapons. Pakistan for its part has indicated readiness to engage with India and other members of the international community to formalize its moratorium and to reach agreement with India on a bilateral nuclear-test ban or a wider ban involving other countries in the region.[33]

40. In a statement issued on 23 September 1999, the Ministers for Foreign Affairs of the five permanent members of the Security Council called upon India and Pakistan to exercise restraint and refrain from taking any action that might further escalate the tensions in the region. They urged both countries to resume bilateral dialogue in the spirit of the Lahore Declaration signed on 21 February 1999 and to resolve their differences through peaceful means. They also called upon India and Pakistan to implement comprehensively and without delay all the provisions of Security Council resolution 1172 (1998), in particular signing and ratifying the Comprehensive Nuclear-Test-Ban Treaty and acceding to the Non-Proliferation Treaty.[34]

41. At the fifty-third session of the General Assembly, in 1998, the Prime Minister of India declared India's readiness to bring its ongoing discussions on the Comprehensive Nuclear-Test-Ban Treaty to a successful conclusion so that its entry into force would not be delayed beyond September 1999. He expressed the expectation that other countries, as indicated in article XIV of the Treaty, would adhere to

it without conditions.[35] The Prime Minister of Pakistan reiterated that his country was prepared to adhere to the Treaty before the conference on facilitating its entry into force "scheduled to be held in September 1999".[36] India has been continuing discussions with key interlocutors on a range of issues. Pakistan has reiterated on several occasions that its adherence to the Treaty would take place only in conditions free from coercion.[37] The Foreign Minister of Pakistan stated in November 1999 that his Government had urged the local press and non-governmental organizations to play an important role in shaping a national consensus on the Treaty. Indian officials have also reiterated on several occasions the need to build a "national consensus" on signing the Treaty.

E. Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty

42. Article XIV, paragraph 2, of the Treaty stipulates that if it has not entered into force three years after the date of the anniversary of its opening for signature, the Secretary-General, in his capacity as depositary of the Treaty, shall convene a conference at the request of a majority of States that have already deposited their instruments of ratification to consider and decide by consensus what measures consistent with international law may be taken to accelerate the ratification process and to facilitate the early entry into force of the Treaty.

43. Accordingly, on 24 September 1999, a majority of those States that had already deposited their instruments of ratification communicated to the Secretary-General a request to convene the Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty. Ratifying and signatory States were invited to participate. States that had neither signed nor ratified, intergovernmental organizations and non-governmental organizations were also invited to attend the Conference.

44. In a joint statement issued before the Conference, the Ministers for Foreign Affairs of the five permanent members of the Security Council stressed, *inter alia*, that they believed that the Comprehensive Nuclear-Test-Ban Treaty was a milestone in the process of nuclear disarmament and non-proliferation, and supported its early entry into force in accordance with its provisions. They hoped that the Conference on Facilitating the Entry into Force of the Treaty, which would be convened in accordance with its article XIV, would contribute to accelerating the ratification process in order to facilitate the early entry into force of the Treaty.[38]

45. The Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty was held at Vienna from 6 to 8 October 1999. It was attended by 92 ratifying and signatory States and 4 non-signatory States, as well as 3 intergovernmental organizations and 13 non-governmental organizations.[39] The purpose of the Conference was to examine the extent to which the requirement for the entry into force of the Treaty had been met and to agree on measures consistent with international law to accelerate its ratification. During the Conference, speakers emphasized the urgent necessity of the early entry into force of the Treaty to fulfil the pledges made when it was adopted and opened for signature, in September 1996. They underlined that entry into force would give fresh impetus to efforts to prevent the proliferation of nuclear weapons and to the process of nuclear disarmament. Many speakers stressed the importance of universal adherence to the Treaty and of the global verification system being built up by the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization. Several speakers referred to the dangers of reviving another nuclear arms race. It was also observed that unilateral self-imposed moratoriums on testing could not replace a legally binding commitment through the signature and ratification of international instruments such as the Comprehensive Nuclear-Test-Ban Treaty. The Final Declaration[40] adopted by consensus reflects the unanimous agreement of the participants on the steps required to achieve the early entry into force of the Treaty, and ultimately to achieve its universality.

46. In the course of consultations that followed the Conference, ratifying States nominated Japan to act in accordance with paragraph 7 (g) of the Declaration, which stipulates that ratifying States will select one of their number to promote cooperation to facilitate the early entry into force of the Treaty, through informal consultations with all interested countries.

F. Developments regarding the entry into force of the Comprehensive Nuclear-Test-Ban Treaty

47. On 8 October 1999, the Head of State of France and the heads of Government of Germany and the United Kingdom of Great Britain and Northern Ireland issued a joint comment appealing to the United States Senate that failure to ratify the Comprehensive Nuclear-Test-Ban Treaty would be a failure in the struggle against proliferation. The stabilizing effect of the Non-Proliferation Treaty, which had been extended in 1995, would be undermined and disarmament negotiations would suffer. They also stressed that the Comprehensive Nuclear-Test-Ban Treaty was an additional barrier against the proliferation of nuclear weapons. They furthermore underlined that the Treaty was effectively verifiable and that under it, a global network of stations was being set up, using four different technologies to identify nuclear tests. Rejection of the treaty by the Senate would remove the pressure from other States still hesitating about whether to ratify it. It would also give great encouragement to proliferators and would expose a fundamental divergence within the North Atlantic Treaty Organization.[41]

48. On 13 October 1999, the United States Senate by a vote of 51-48 rejected the ratification of the Comprehensive Nuclear-Test-Ban Treaty. Following the vote, President Clinton stressed that with the vote the Senate had taken the United States on a detour, but that eventually the United States would ratify the Treaty. He underlined that the opponents of the Treaty had not offered any alternatives on how to keep other countries from developing nuclear arsenals and threatening the security of the United States. He also affirmed that under his presidency the United States would not conduct any new nuclear tests, and he hoped that other countries as well would refrain from nuclear testing.[42]

49. President Jiang of the People's Republic of China, in October 1999, while voicing concern over the United States Senate vote, reaffirmed his country's aim to ratify the Comprehensive Nuclear-Test-Ban Treaty. On 17 November 1999, the President of the Russian Federation submitted the Treaty for ratification by the State Duma of the Federal Assembly of the Russian Federation, expressing the hope that the Duma would give favourable consideration to the question in the very near future.[43]

50. At the deliberations during the fifty-fourth session of the General Assembly in 1999, Member States expressed concern about the United States Senate's rejection of the Comprehensive Nuclear-Test-Ban Treaty and viewed it as a serious setback to multilateral efforts to further strengthen the nuclear non-proliferation and disarmament regime. At the same time, the announcement by the United States Government that it would maintain its moratorium on testing was welcomed. Many States called for renewed efforts to increase adherence to the Treaty. The General Assembly, in its resolution 54/63 of 1 December 1999 on the Comprehensive Nuclear-Test-Ban Treaty,[44] *inter alia*, endorsed the Final Declaration adopted at the Conference in Vienna and urged all States to sustain the momentum generated by the Conference by continuing to remain seized of the issue at the highest political level. All States that had not yet done so were called upon to sign and ratify the Treaty and to accelerate their ratification processes with a view to their early successful conclusion. The Assembly furthermore welcomed the contributions by States signatories to the work of the CTBTO Preparatory Commission, in particular to its efforts to ensure that the Treaty's verification regime would be capable of meeting the verification requirements of the Treaty at its entry into force, in accordance with article IV of the Treaty. Finally, States were urged to maintain their moratoriums on nuclear-weapon-test explosions or any other nuclear explosions.

Notes

[1] *SIPRI Yearbook 1997*, chap. 12; appendix 12B, pp. 432-436.

[2] A/53/427.

[3] Namely, Treaty on the Limitation of Underground Nuclear Weapon Tests and Treaty on Underground Nuclear Explosions for Peaceful Purposes.

[4] The single multilateral negotiating body started as the Eighteen-Nation Committee on Disarmament in 1962. It was enlarged several times, and in 1969 the name was changed to "Conference of the Committee on Disarmament" In 1978, the Committee on Disarmament was established and its name changed again in 1984 to "Conference on Disarmament". In the present paper, references are made to the body according to the name at the particular time under consideration.

[5] CD/1238.

[6] Decision 2 on "Principles and Objectives for Nuclear Non-Proliferation and Disarmament (NPT/CONF.1995/32 (Part I), annex), para. 4.

[7] Resolution 50/65 was adopted without a vote.

[8] Resolution 50/70 A was adopted by 85 votes to 18, with 43 abstentions.

[9] Resolution 50/64 was adopted by 110 votes to 4, with 45 abstentions.

[10] CD/1427.

[11] CD/1422 and CD/1423.

[12] A/50/1024.

[13] A/50/1027.

[14] A/50/1030.

[15] A/50/1031 (Argentina); A/50/1026 (Japan); and A/50/1032 (Russian Federation).

[16] A/50/L.78.

[17] Those States are: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Democratic People's Republic of Korea, Democratic Republic of the Congo (formerly Zaire), Egypt, Finland, France, Germany, Hungary, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Mexico, Netherlands, Norway, Pakistan, Peru, Poland, Republic of Korea, Romania, Russian Federation, Slovakia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Viet Nam.

[18] *United Nations, Treaty Series*, vol. 1155, p. 331, article 18.

[19] CTBT/MSS/RES/1.

[20] See statement of the Executive Secretary of the CTBTO Preparatory Commission to the Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty, 6 October 1999.

[21] Ibid.

[22] Statement of the Executive Secretary of the CTBTO Preparatory Commission to the First Committee of the General Assembly at its fifty-fourth session, 19 October 1999 (A/C.1/54/PV.11).

[23] Statement and document CTBT-Art.XIV/1999/3.

[24] Some of the statements of the Secretary-General are reproduced in S/1998/619, and in press releases SG/SM/655, SG/SM/6560, SG/SM/6575, SG/SM/6577, SG/SM/6585 and SG/SM/6708.

[25] CD/1556.

[26] CD/PV.792.

[27] CD/1504 and Add.1.

[28] CD/PV.795, p. 54.

[29] S/1998/473.

[30] S/1998/619.

[31] A/53/667-S/1998/1071.

[32] GC(42)RES/19.

[33] CD/1523, CD/1524 and A/53/PV.13, p. 18; CD/PV.795.

[34] S/1999/996.

[35] A/53/PV.13.

[36] A/53/PV.12.

[37] See statement at the Conference on Facilitating the Entry Into Force of the Comprehensive Nuclear-Test-Ban Treaty.

[38] S/1999/996.

[39] See Report of the Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty, document CTBT-Art.XIV/1999/5.

[40] Ibid., annex.

[41] See *The New York Times*, 8 October 1999.

[42] The White House, Office of the Press Secretary, 13 October 1999.

[43] A/54/644.

[44] Resolution 54/63 was adopted by 137 votes to none, with 6 abstentions.

ANNEX*

Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty

(Vienna, 1999)

FINAL DECLARATION

1. Recalling the responsibilities which we assumed by signing the Comprehensive Nuclear-Test-Ban Treaty and pursuant to Article XIV of that Treaty, we the ratifiers, together with the Signatory States, met in Vienna from 6-8 October 1999 to promote its entry into force at the earliest possible date. We welcomed the presence of representatives of non-Signatory States, international organizations and non-governmental organizations.

2. Determined to enhance international peace and security throughout the world, we reaffirmed the importance of a universal and internationally and effectively verifiable comprehensive nuclear-test-ban treaty. We reiterated that the cessation of all nuclear weapon test explosions and all other nuclear explosions, by constraining the development and qualitative improvement of nuclear weapons and ending the development of advanced new types of nuclear weapons, constitutes an effective measure of nuclear disarmament and non-proliferation in all its aspects and thus a meaningful step in the realization of a systematic process to achieve nuclear disarmament. We therefore renewed our strong determination to work for universal ratification of the Treaty, and its early entry into force as provided for in Article XIV.

3. In accordance with the provisions of Article XIV of the Treaty, we examined the extent to which the requirement set out in paragraph 1 had been met and decided by consensus what measures consistent with international law may be undertaken to accelerate the ratification process in order to facilitate the early entry into force of the Treaty.

4. Since the Treaty was adopted at the United Nations General Assembly and opened for signature three years ago, 154 States have signed and 51 States have deposited their instruments of ratification. Of the 44 States listed in Annex 2 to the Treaty whose ratification is required for the entry into force of the Treaty, 41 have signed, and 26 have both signed and ratified the Treaty. A list of those States is provided in the Appendix. The ratification process has accelerated. We welcomed this as evidence of the determination of States not to carry out any nuclear weapon test explosion or any other nuclear explosion, and to prohibit and prevent any such nuclear explosion at any place under their jurisdiction or control.

5. Since the opening for signature of the CTBT, nuclear explosions have been carried out. The countries concerned subsequently declared that they would not conduct further nuclear explosions and indicated their willingness not to delay the entry into force of the Treaty.

* Originally issued under the symbol A/54/514-S/1999/1102.

6. We noted with satisfaction the report of the Executive Secretary of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) to the Conference on progress made by the Preparatory Commission and its Provisional Technical Secretariat since November 1996 in fulfilment of the requirement to take all necessary measures to ensure the effective establishment of the future CTBTO.

7. Conscious of the objectives we all share and of the importance of universal adherence to the Treaty, welcoming the ratifications of all the States that have done so, and stressing particularly the steps required to achieve its early entry into force, as provided for in Article XIV of the Treaty, we:

(a) Call upon all States that have not yet signed the Treaty to sign and ratify it as soon as possible and refrain from acts which would defeat its object and purpose in the meanwhile;

(b) Call upon all States that have signed but not yet ratified the Treaty, in particular those whose ratification is needed for its entry into force, to accelerate their ratification processes with a view to their early successful conclusion;

(c) Recall the fact that two States whose ratification is needed for the Treaty's entry into force but which have not yet signed it have expressed their willingness not to delay the entry into force of the Treaty, and call upon them to fulfil these pledges;

(d) Note the fact that one State whose ratification is needed for the Treaty's entry into force but which has not yet signed it has not expressed its intention towards the Treaty, and call upon this State to sign and ratify it so as to facilitate the entry into force of the Treaty;

(e) Note the ratification by two nuclear weapon States, and call upon the remaining three to accelerate their ratification processes with a view to their early successful conclusion;

(f) In pursuit of the early entry into force of the Treaty, undertake ourselves to use all avenues open to us in conformity with international law, to encourage further signature and ratification of the Treaty; and urge all States to sustain the momentum generated by this Conference by continuing to remain seized of the issue at the highest political level;

(g) Agree that ratifying States will select one of their number to promote cooperation to facilitate the early entry into force of the Treaty, through informal consultations with all interested countries;

(h) Urge all States to share legal and technical information and advice in order to facilitate the processes of signature, ratification and implementation by the States concerned, and upon their request. We encourage the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the Secretary-General of the United Nations to support actively these efforts consistent with their respective mandates;

(i) Call upon the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization to continue its international cooperation activities demonstrating the benefits of the application of verification technologies for

peaceful purposes in accordance with the provisions of the Treaty, thus encouraging signature and ratification of the Treaty by the States concerned;

(j) Appeal to all relevant sectors of civil society to raise awareness of and support for the objectives of the Treaty, as well as its early entry into force as provided for in Article XIV of the Treaty.

8. We reaffirm our commitment to the Treaty's basic obligations and our undertaking to refrain from acts which would defeat the object and purpose of the Treaty pending its entry into force.

9. We remain steadfast in our commitment to pursue the efforts to ensure that the Treaty's verification regime shall be capable of meeting the verification requirements of the Treaty at entry into force, in accordance with the provisions of Article IV of the Treaty. We will continue to provide the support required to enable the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization to complete its tasks.

10. The Conference addressed the issue of possible future conferences and took note of the provisions contained in paragraph 3 of Article XIV of the Treaty.

Appendix

to the Final Declaration of the Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty (Vienna, 1999)

List of States

A. States which have ratified the Treaty:

Argentina
Australia
Austria
Azerbaijan
Belgium
Bolivia
Brazil
Bulgaria
Canada
Czech Republic
Denmark
El Salvador
Estonia
Fiji
Finland
France
Germany
Greece
Grenada
Hungary
Ireland
Italy
Japan
Jordan
Lesotho
Luxembourg
Mali
Mexico
Micronesia (Federated States of)
Monaco
Mongolia
Netherlands
New Zealand
Norway
Panama
Peru
Poland
Qatar
Republic of Korea
Romania
Senegal
Slovakia
Slovenia
South Africa
Spain
Sweden
Switzerland
Tajikistan
Turkmenistan
United Kingdom of Great Britain and Northern Ireland
Uzbekistan

B. The following 44 States, whose ratification is required for the entry into force of the Treaty in accordance with Article XIV, are listed in Annex 2 to the Treaty:

Algeria
Argentina
Australia
Austria
Bangladesh
Belgium
Brazil
Bulgaria
Canada
Chile
China
Colombia
Democratic People's Republic of Korea
Democratic Republic of the Congo
Egypt
Finland
France
Germany
Hungary
India
Indonesia
Iran (Islamic Republic of)
Israel
Italy
Japan
Mexico
Netherlands
Norway
Pakistan
Peru
Poland
Republic of Korea
Romania
Russian Federation
Slovakia
South Africa
Spain
Sweden
Switzerland
Turkey
Ukraine
United Kingdom of Great Britain and Northern Ireland
United States of America
Viet Nam

1. **States listed in Annex 2 to the Treaty which have signed and ratified the Treaty:**

Argentina
Australia
Austria
Belgium
Brazil
Bulgaria
Canada
Finland
France
Germany
Hungary
Italy
Japan
Mexico
Netherlands
Norway
Peru
Poland
Republic of Korea
Romania
Slovakia
South Africa
Spain
Sweden
Switzerland
United Kingdom of Great Britain and Northern Ireland

2. **States listed in Annex 2 to the Treaty which have signed but not ratified the Treaty:**

Algeria
Bangladesh
Chile
China
Colombia
Democratic Republic of the Congo
Egypt
Indonesia
Iran (Islamic Republic of)
Israel
Russian Federation
Turkey
Ukraine
United States of America
Viet Nam

3. **States listed in Annex 2 to the Treaty which have not signed the Treaty:**

Democratic People's Republic of Korea
India
Pakistan